REMARKS

The present Amendment is in response to the Examiner's Office Action mailed August 6, 2008. Claims 7-10 are canceled, claim 1 is amended, and new claims 11-20 are added. Claims 1-6 and 8-20 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

I.   Examiner's Interview

Applicant expresses their appreciation to the Examiner for conducting a telephone interview with Applicant on September 30, 2008. The Examiner indicated that the claims as amended distinguished over the art of record.

II.   Prior Art Rejections

A.   Rejection Under 35 U.S.C. §102(b)

The Examiner rejects claims 1, 5, and 6 under 35 U.S.C. § 102(b) in view of *Wilkins* (United States Patent No. 5,446,919). Because *Wilkins* does not teach or suggest each and every element of the rejected claims, Applicant respectfully traverses this rejection in view of the following remarks.

Wilkins discloses a system for selecting advertisements displayed to a television viewer. The system includes a master data base that stores "[e]xternally provided information includ[ing] compiled lists (e.g. supermarket scanner data, consumer credit information), publication lists ...,

responder lists, ..." and the like. Col. 8, lns. 15-23. The information is compiled to generate a master database "composed of demographic and psychographic [information] about each television household." Col. 8, lns. 24-25. The demographic and psychographic information is transmitted to the consumers over a cable television distribution network. Col. 9, ln. 66 - Col. 10 ln. 1.

A channel selector/decoder in a user household receives alternative commercials encoding "profile commands" specifying a desired audience for each commercial. Col. 9, lns. 50-55; Col. 10, lns. 30-43. The channel selector/decoder compares the commands to the demographic and psychographic information and automatically tunes the television to the commercial corresponding to a specific household. Col. 10, lns. 8-9.

In contrast, amended claim 1 recites, in combination with other elements, "receiving a first broadcast television program with the receiver, the first broadcast television program being received on a first channel during a first time period; receiving a commercial corresponding to a second television program with the receiver, the commercial being received on the first channel during a second time period, the second time period being within the first time period; receiving the ID code with the receiver, the ID code being received on the first channel during the second time period; and *if a user instruction is received during the second time period, activating the receiver during the second time period to extract and store the ID code; and automatically tuning the receiver to a second channel after the first period if the stored ID code is detected on the second channel.*"

Wilkins does not provide any means for storing an ID code responsive to a user input. Profile commands are executed concurrently with their broadcast and are not stored in response to a user input received during a commercial. The only user input in *Wilkins* is a channel selection, which is responded to by changing the channel immediately upon receipt. Col. 10, lns. 44-45 ("Similarly, whenever a *new* channel is entered by the viewer from remote control with infrared transmitter 170, it overrides any previous setting."). Accordingly, *Wilkins* does not disclose a method including the step of "activating the receiver during the second time period to extract and store the ID code" "if a user instruction is received during the second time period," as recited in claim 1.

Furthermore, in the system of *Wilkins*, commercials are tuned to automatically as soon as the "profile commands" are detected. Col. 10, lns. 30-43. *Wilkins* does not teach "automatically

tuning the receiver to a second channel after the first period if the stored ID code is detected on the second channel" as recited in amended claim 1.

With respect to claim 5, *Wilkins* fails to disclose a method including the steps of "transmitting a first program during a first time period on a first data stream, the first program comprising a first main program, a sub-program, and a bait ID code, the sub-program being within the main program, and the bait ID code corresponding to the sub-program; and transmitting a second program during a second time period on a second data stream, the second program comprises a second main program and a capture ID code, the second main program corresponds to the sub-program, and the capture ID code corresponds to the bait ID code." The only codes sent in the system of *Wilkins* are "profile commands" and "psychographic and demographic information." Neither of these is processed or interpreted as are the bait ID code and capture ID code of claim 5.

Claim 6 is dependent on claim 5 and is therefore allowable for at least the same reasons discussed above.

B.   Rejection Under 35 U.S.C. § 103

The Examiner rejects claims 2-4, and 7-10 under 35 U.S.C. § 103 over *Wilkins* (U.S. Patent No. 5,446,919).

The Examiner has noted that *Wilkins* fails to disclose the use of "bait ID codes" and "repeating ID codes." The Examiner has taken official notice that such codes are well known in the art. Applicant respectfully asserts that bait ID codes and repeating ID codes are not taught by the prior art and, more particularly, they are not taught in combination with the other elements of the claims nor are they taught as being interpreted or processed as recited in the claims.

Furthermore, the official notice taken with respect to claims 2-4 and 7-10 fails to remedy the above noted deficiencies of *Wilkins* with respect to claims 1 and 5 upon which claims 2-4 and 7-10 depend, respectively.

III.   Patentability of Added Claims

By this amendment claims 11-20 have been added. Although not identical in scope, these claims are believed to be allowable for at least some of the reasons noted above with respect to claim 1.

CONCLUSION

In view of the foregoing, Applicant believes the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

Dated this 6th day of November, 2008.

Respectfully submitted,

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